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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

W. P. (C) No. 4333 of 2006

Petitioner	:	Prit Pal Singh Bhatia
		Versus
Respondents	:	State Transport Appellate Tribunal, Raipur & others

Post for order on 21st March, 2007.

Sd/-
Satish K. Agnihotri
Judge

(55)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. (C) No. 4333 of 2006

Petitioner		Prit Pal Singh Bhatia, son of late Shri H. S. Bhatia, aged about 47 years, residence of near Bus stand Patthalgaon, District Jashpur, Chhattisgarh.
	Versus	
Respondents	1.	State Transport Appellate Tribunal, Raipur, Chhattisgarh.
	2.	R. T. A. Chhatisgarh, Raipur.
	3.	Secretary, R.T.A., Bilaspur, Chhattisgarh.
	4.	Ghanshyam Singh, Kabir Chowk, Jute Mill, Road, Raigarh, Chhattisgarh.
	5.	Nand Kishore Gupta, Through Jagdish Gupta, Holder of General Power of Attorney, Rajendra Nagar, Raipur, Chhattisgarh.

SB: Hon'ble Mr. Justice **Satish K. Agnihotri, J**

Shri B. K. Rawat, *Advocate for the petitioner.*

Smt. Anju Ahuja, Deputy Govt. Advocate for the respondents No. 1 to 3.

Shri Ajay Shrivastava, Advocate for the respondents No. 4 and 5.

ORDER

(Passed on this 21st day of March, 2007)

The following order of the Court is passed by **Satish K. Agnihotri, J.**

1. By this petition filed under Article 226 of the Constitution of India, the petitioner challenges the legality and validity of the order dated 27.7.2006 passed by the State Transport Appellate Authority (S.T.A.T.) Raipur in Revision No. 161/2005 (filed by the respondent No.4) and 180/2005 (filed by the respondent No.5), whereunder the stage carriage permit No. 2310/B/05, for plying stage carriage on the route between Jashpur and Durg, granted by the Regional Transport Authority (R.T.A.), Bilaspur vide order dated 29.6.2005 (Annexure P/1), was cancelled.

2. The S.T.A.T. cancelled the said stage carriage permit, granted for a period of five years, on the ground that in the route there is no mention of stoppage at Sarangarh and Patthalgaon. The said permit does not

mention any route stoppages with timings, except departure from Jashpur, arrival at Durg and departure from Durg, arrival at Jashpur. The power to grant stoppage and timing was assigned to the Secretary of the Regional Transport Office, Bilaspur Division. Thus, the permit was granted in contravention with the provisions of Section 68(3) (ca) of the Motor Vehicles Act, 1988, as no such route from Durg to Jashpur and vice versa Jashpur to Durg, without stoppage, has been stipulated by the Government. The revision was further allowed on other ground that no opportunity of hearing with regard to the fixing of timing, other than the time applied by the permit holder was given to the objectors. The S.T.A.T. has accordingly allowed the revision and cancelled the permit No. 2310/B/05 granted by the R.T.A. Bilaspur.

3. I have heard learned counsel for the parties and perused the pleadings and documents appended thereto. The route specified under the provisions of Section 68(3) (ca) is Durg to Jashpur with stoppage at Raipur, Saraipali, Sarangarh, Raigarh, Patthalgaon, Kunkuri vide notification dated 14th June, 2001 (AnnexureP/3). There is no specified route from Durg to Jashpur or vice versa, without having any stoppages in between. Thus, the finding of the S.T.A.T. is correct and does not suffer from any infirmity, illegality or irregularity.

4. With regard to the grant of stoppages by the order of the Secretary, (at page 14 of the petition), the same is also without jurisdiction as the Secretary has no power to specify points of stoppages and timing. Rule 67 of the Chhattisgarh Motor Vehicles Rules, 1994 provides for delegation of powers by the Regional Transport Authority to Secretary, which does not empower the Secretary to fix and determine stoppages and the time, in case of grant of permit under the provisions thereof. Thus, the order of the R.T.A. respondent No.3 to the effect that the stoppage in between and timing shall be issued by the Secretary is excessive delegation. Rule 67 reads as under :-

"67. **Delegation of powers by Regional Transport Authority.**-(1) A Regional Transport Authority may, by general or special resolution recorded in its proceedings and subject to such restrictions limitations and conditions as may be specified, delegate to Chairman, Secretary, Additional Secretary, or Assistant Secretary of the Authority all or any of the following powers, namely:

(a) to grant, refuse or renew a private service vehicle permit under sub-section (1) of section 76;

(b) to grant renew or refuse goods carriage permit under section 79;

(c) to renew goods carriage permit under section 81;

(d) to permit the replacement of one vehicle by another; under section 83;

(e) to suspend a permit under section 86 or to recover from the holder thereof the sum of money agreed upon in accordance with sub-section (5) of the said section;

(f) to grant or refuse to grant a temporary permit under section 87 or under sub-section (7) and (8) of section 88, as the case may be.

(g) to countersign a temporary permit under sub-section (1) of section 88 or to attach or vary conditions thereof under sub-section (1) and (3) of the said Section;

(h) to grant, renew and refuse the national permit for goods carriage under sub-section (12) of section 88;

(i) to grant, refuse or renew licences of Agents under rule 120 and 132 or to suspend a licence under rule 128 or to recover from the holder thereof sum of money agreed upon in lieu of suspension;

(2) xxx xxx xxx

(3) xxx xxx xxx"

5. The last contention of the petitioner that a person i.e. the respondent No.4 has no locus standi to challenge the permit as he has not filed any objection, learned counsel relied on a decision of Hon'ble the Supreme Court in **Mithllesh Garg etc. etc. Vs. Union of India and others etc. etc.** (AIR 1992 SC 443). The facts of that case are not applicable to the facts of the present case. The respondent No.3 has exceeded his jurisdiction by granting stage carriage permit in favour of

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the petitioner from Jashpur to Durg and vice versa, which is not a specified rout. The route is specified as per the notification dated 14.6.2001 with stoppages, which does not find place in the stage carriage permit granted by the respondent No.3 i.e. Durg to Jashpur and Jashpur to Durg. Thus, when apparently the authority has exceeded in its jurisdiction, the Tribunal/Court cannot close its eyes on the apparent error on the face of it. Thus, the order passed by the S.T.A.T. is unexceptionable. It does not warrant any interference in exercise of the powers of judicial review under Article 226 of the Constitution of India.

6. As a result, for the reasons stated herein above, this petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur